

MASS. SET 2-2007/981 ✓

The Commonwealth of Massachusetts State Ethics Commission

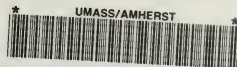
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FEB 22 1993

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COMMISSION FACT SHEET



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Board of Health Members May Not Install Local Septic Systems

In an advisory opinion issued in August 1987, the Commission decided that a local board of health member may not install septic systems in his own town. This ruling has major implications for BOH members across the state engaged in similar work.

The basis for the Commission's decision is that the conflict law prohibits all town employees, including BOH members, from being paid by private parties to do work that is "in relation to" a matter of concern to the town. Municipalities have a direct and substantial interest in many matters related to the installation of septic systems (such as the issuing of a septic permit, the ongoing oversight of the installation and the final inspection). For these reasons, the Commission decided that if a BOH member installed septic systems for private parties, that member would be privately paid "in relation to" matters of interest to the town in violation of the conflict law.

The conflict law also prohibits BOH members from representing private clients before town boards or agencies. Therefore, a BOH member may not meet with the local Health Agent on behalf of his customer to discuss an inspection of his work.

If BOH members are designated as "special" municipal employees, they qualify for an exemption to the law which permits them to represent clients before other town boards (but not their own) and they may be paid by private clients for doing work that requires town permits, as long as the permit issues from an agency different from their own. For example, in the August opinion, the Commission told the BOH member that he could connect local water and sewer service lines because approvals for these connections are handled by the Water and Sewer Departments.

These restrictions are intended to prevent potential conflicts which arise when an individual is the town "regulator" of the very work he is doing for private parties.

Exceptions

The Commission noted that there will be instances when municipal employees (even if they are not designated as specials) are permitted to be privately paid to do work which is authorized by a town permit. For example, a municipal employee who is one of many construction workers on a major project which is authorized by a single permit would not necessarily be paid "in relation to" that permit. Without the connection to the permit, the employee may be privately paid for the work. BOH members in this type of situation should call the Commission for advice on their specific case.

Summary of Advisory Opinion 87-31
Issued 8/17/87

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You may call the Commission to receive the full text of Advisory Opinion 87-31.

Commission Fact Sheets are prepared and issued by the Public Education Division of the State Ethics Commission. They are intended to provide guidance to public officials and employees concerning practical applications of the conflict law.